

33207

SERVICE DATE - DECEMBER 20, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34282]

Western Illinois Railway Company—Acquisition Exemption—Toledo, Peoria & Western Railway Corporation

The Western Illinois Railway Company (WIRC), a noncarrier, filed a notice of exemption under 49 CFR 1150.31 to acquire from the Toledo, Peoria & Western Railway Corporation (TP&W) the rail, ties, and certain improvements on a 71.5-mile rail line, between milepost 194.5 at La Harpe and milepost 123.0 at Peoria, in Hancock, McDonough, Fulton, and Peoria Counties, IL (the La Harpe Line or Line).<sup>1</sup> TP&W will retain the common carrier obligation and the permanent and exclusive right to operate the Line, the right to maintain and renew the Line, and the right to require WIRC to transfer the Line's physical assets in the event

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<sup>1</sup> In SF&L Railway, Inc.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, IL, STB Finance Docket No. 33995 et al. (STB served Oct. 17, 2002), the Board ordered SF&L Railway, Inc. (SF&L), to reconvey to TP&W the operating easement over, and the rail, ties and certain improvements on the 71.5-mile rail line acquired under the class exemption in that proceeding that was served and published in the Federal Register at 66 FR 9411 on February 7, 2001. A petition for reconsideration was filed by SF&L on December 13, 2002.

TP&W agrees or is required to sell the Line under an offer of financial assistance pursuant to 49 U.S.C. 10904.<sup>2</sup>

The transaction was expected to be consummated on or after November 27, 2002.

In a related matter, RailAmerica, Inc. (RailAmerica) and Palm Beach Rail Holdings, Inc. (PBRH), a noncarrier subsidiary of RailAmerica, filed a notice of exemption in RailAmerica, Inc. et al.–Corporate Family Reorganization Exemption–Western Illinois Railway Company, STB Finance Docket No. 34283, for PBRH to continue in control of WIRC when it becomes a rail carrier.<sup>3</sup>

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34282, must be filed with the Surface Transportation Board, 1925 K Street, NW,

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<sup>2</sup> On September 3, 2002, SF&L filed a petition for exemption to abandon the La Harpe Line. See SF&L Railway, Inc.–Abandonment Exemption–in Hancock, McDonough, Fulton, and Peoria Counties, IL, STB Docket No. AB-448 (Sub-No. 2X) (STB served Sept. 23, 2002). Notice was served and published in the Federal Register at 67 FR 59596 on September 23, 2002. TP&W, on October 30, 2002, filed a motion for permission to substitute for SF&L in STB Docket No. AB-448 (Sub-No. 2X). A decision on the motion will be issued in the near future.

<sup>3</sup> On November 26, 2002, RailAmerica, PBRH, and WIRC jointly filed a motion to dismiss both the acquisition in this case and the continuance in control in STB Finance Docket No. 34283 for lack of Board jurisdiction. The motion will be handled in a separate decision.

Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

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Decided: December 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary